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## FISCAL IMPACT REPORT

SPONSOR: Hobbs DATE TYPED: 02/28/03 HB 652

SHORT TITLE: Transfer State Fire Marshal to DPS SB \_\_\_\_\_

ANALYST: Fox-Young

### APPROPRIATION

| Appropriation Contained |      | Estimated Additional Impact |                                    | Recurring or Non-Rec | Fund Affected    |
|-------------------------|------|-----------------------------|------------------------------------|----------------------|------------------|
| FY03                    | FY04 | FY03                        | FY04                               |                      |                  |
|                         |      |                             | \$0.1 Significant<br>See Narrative | Recurring            | OSF/General Fund |
|                         |      |                             |                                    |                      |                  |

(Parenthesis ( ) Indicate Expenditure Decreases)

### REVENUE

| Estimated Revenue |            | Subsequent Years Impact | Recurring or Non-Rec | Fund Affected        |
|-------------------|------------|-------------------------|----------------------|----------------------|
| FY03              | FY04       |                         |                      |                      |
|                   | (26,000.0) | (26,000.0)              | Recurring            | General Fund         |
|                   | 26,000.0   | 26,000.0                | Recurring            | Fire Protection Fund |
|                   |            |                         |                      |                      |

(Parenthesis ( ) Indicate Revenue Decreases)

Conflicts with HB 686 (Homeland Security Department Act)

### SOURCES OF INFORMATION

#### Responses Received From

Public Regulation Commission (PRC)

Department of Public Safety (DPS)

Energy, Minerals and Natural Resources Department (EMNRD)

Report to the Legislative Council from the PRC Subcommittee In Response to SJM 41

## SUMMARY

### Synopsis of Bill

House Bill 652 amends Section 8-8-9, creating the Fire Marshal Division at the Department of Public Safety (DPS) and removing the Fire Marshal Bureau from the Public Regulation Commission (PRC). The bill amends 59A-52-16, transferring rulemaking authority regarding flammable liquids from the commission to the marshal, also amending 59A-52-21, 59A-52-22, 59A-52-23, 59A-53-6, transferring the authority over administrative appeals and the authority to conduct reviews of decisions of the marshal to the secretary of DPS.

The bill amends 59A-53-7, striking the commission and inserting the secretary of DPS as the entity (in addition to the marshal) who shall certify payments from the Fire Protection Fund to the State Treasurer.

The bill amends 59A-53-15, making the Fire Protection Fund nonreverting.

The bill enacts a new section, "Supplemental Distribution," providing that the marshal shall adopt and promulgate rules to govern the distribution of money in the Fire Protection Fund in excess of the annual distribution pursuant to Sections 59A-53-4 and 59A-53-5, the amount required for administration of the fire marshal division and the training academy and the amount required for volunteer firefighter retirement. The bill provides that a supplemental distribution may be used for a number of purposes as long as they do not conflict with the provisions of the Fire Protection Fund Law.

The bill transfers all personnel, records, contracts, obligations and supplies belonging to the fire marshal bureau and the training academy on July 1, 2003.

### Significant Issues

In response to SJM 41, the PRC subcommittee reviewed the organization of the PRC during the interim and makes the following recommendations regarding the State Fire Marshal:

"The responsibilities of the State Fire Marshal and Fire Academy should be transferred to a department created to consolidate the fire and emergency response activities in the state. Local government fire representatives testified that there is a need to elevate and coordinate such functions to provide better services throughout the communities in New Mexico. They stated that such functions are not a priority and are not well served in the PRC. In the discussions of a possible transfer to the Department of Public Safety (DPS), they made compelling arguments that emergency response activities are significantly different from the law enforcement focus of the DPS. These functions should be included in the legislative debate on the creation of a new Homeland Security Department in New Mexico."

The Energy, Minerals and Natural Resources Department (EMNRD) reports that its forestry division works closely with DPS and the State Fire Marshal during large forest fire disasters and that combining the two entities may improve coordination.

The bill creates the Fire Marshal Division at DPS, providing that this division **may** include the

Firefighter's Training Academy. This language gives the secretary of DPS the latitude to assign the operations of the Firefighter's Academy to another existing division in the department.

**FISCAL IMPLICATIONS**

The consensus revenue estimate for the fiscal year 2004 reversion from the Fire Protection Fund to the General Fund is \$26,000.0. This bill makes the fund nonreverting, meaning that money which is not spent on the distribution to fire departments, the academy budget, operating expenses for the fire marshal division and pursuant to the Volunteer Firefighter Retirement Act will not revert to the General Fund. Instead, such monies will remain in the fund for use as determined by the State Fire Marshal.

PRC indicates that it currently receives \$250.0 each year from fire funds that it applies toward administering three bureaus. While the bill provides that the supplemental distribution may be used to improve insurance ratings and to augment the annual distribution, among other purposes, there are no specific provisions for funding the collection arm of the PRC. If fire funds or additional amounts from the general fund are not appropriated to PRC beginning in fiscal year 2004, it is unclear how the agency will continue to process all collections for the fund.

DPS indicates that, in the absence of an appropriation, transferring the marshal and the academy to the department shall place an additional burden on the administrative support operations of DPS.

**JCF/prr**